



**MINUTES  
CITY COUNCIL MEETING  
March 15, 2022**

**CALL TO ORDER**

The meeting was called to order at 6:30 pm.

**Present:** Mayor: Charlie Miner; Council: Jahn Dyvik, Mike Feldmann, Gina Joyce, and Deirdre Kvale

**Staff Present:** City Administrator: Scott Weske; Fire Chief: James Van Eyll; Planning Consultants: Hannah Rybak and Jared Johnson; City Attorney: John Thames; and City Clerk: Jeanette Moeller

**Absent:** None

**PLEDGE OF ALLEGIANCE**

**MAYOR'S COMMENTS – LONG LAKE NEWS, MEETING REVIEW AND UPDATES**

Mayor Miner reported that the Council had met in a work session prior to the regular meeting, at which they discussed issues related to the future of the City's fire services and directed staff to do some research on various items.

**APPROVE AGENDA**

*A motion was made by Feldmann, seconded by Dyvik, to approve the agenda as presented. Ayes: all.*

**CONSENT AGENDA**

The Consent Agenda consisted of:

- A. Approve Minutes of March 1, 2022 City Council Work Session Meeting
- B. Approve Minutes of March 1, 2002 City Council Meeting
- C. Approve Vendor Claims and Payroll
- D. Accept the Resignation of Firefighter Andy Holzerland from the Long Lake Fire Department
- E. Adopt Resolution No. 2022-13 Approving Issuance of Special Event Permit #S2022-02 for the Memorial Day Challenge to be held Monday, May 30, 2022; Approve Issuance of a Noise Variance Permit for the Event
- F. Authorize Pay Request #1 to Hydro-Klean, LLC in the amount of \$122,287.61 for the District 4 Sanitary Sewer Rehabilitation Project
- G. Adopt Resolution No. 2022-14 Conditionally Appointing Lance Swearingen to the position of Paid On-Call Firefighter for the City of Long Lake Fire Department

*A motion was made by Dyvik, seconded by Joyce, to approve the Consent Agenda as presented. Ayes: all.*

**OPEN CORRESPONDENCE**

**Marty Schneider, Long Lake Area Chamber of Commerce Board** - Mr. Schneider stated that on March 14, 2022, the Long Lake Area Chamber of Commerce met with Hennepin County District 6 Commissioner Chris LeTondresse to talk about opportunities that may be available for small

businesses through some grant money filtered down from the Federal level. He indicated that they will be receiving more information on these possibilities and will keep the City apprised.

## **BUSINESS ITEMS**

### **Presentation of 2021 Long Lake Fire Department Annual Report.**

Fire Chief Van Eyll presented the 2021 Long Lake Fire Department Annual Report and noted that although it had been an interesting year, their mission, vision, and value statements have not changed. He reviewed the current officer positions and roster, gave an update on staffing levels versus the prior year; reviewed retirements that occurred in 2021; provided an update on the number of probationary members versus firefighters who had completed their probationary period in 2021; gave a rundown of Station 1 and Station 2 facilities and equipment; and reviewed the emergency call activity and breakdown from 2021 compared to past years. He presented summaries of average response times, responders per incident, call hours per city; and call trends by day of week and by month. He summarized training goals; acknowledged the top trainers for Station 1 and 2 for 2021; and reviewed firefighter milestones. He mentioned that all team building activities were cancelled in 2021 due to COVID-19, and the department is looking forward to resuming activities in 2022, such as the recent Boot Hockey Tournament where they took second place. LLFD community events currently scheduled for 2022 include the annual pancake breakfast for May 1, a Memorial 5K Run on July 30, the Fire Prevention Open House on October 3, and the Slow Burn Brigade's Toy and Food Drive on December 3.

### **Planning Case #2021-05/Request for Approval of a Final Plat for Aava Vetta to be Located at 1843, 1877, 1885, and 1895 Symes Street; Public Hearing: Request for Vacation of Drainage and Utility Easement**

Planning Consultant Rybak reviewed the scope of the Aava Vetta project for the construction of 11 townhomes split between two buildings. She indicated that the units will have tuck under garages, be three stories high, with decks on the second level. The item before Council is for consideration of the Final Plat request and an easement vacation. She indicated that the Comprehensive Plan guides the property for multi-family residential at a medium density, and the project plans are consistent with that future land use guidance. The previously existing homes were recently demolished, so the land is currently vacant. The proposed buildings meet all the zoning requirements for setbacks and height. She described access, parking, tree preservation and landscape plans; and reviewed the tentative project timeline with construction to begin in May.

City Engineer Reifsteck discussed the hardcover and stormwater plans and considerations for the project. The developer will be replacing City sewer and watermain infrastructure along Symes Street, and will reconstruct Symes Street in front of the development to include a new six-foot sidewalk. He noted that the developer has been working towards addressing engineering review and comments as included in the staff report.

Rybak reported that the applicant has also request an easement vacation and explained that there is a 10-foot drainage and utility easement that runs on the shared side property lines of 1877 and 1885 Symes Street. The existing easement contains the storm sewer line which will need to be relocated for the project; however, the Final Plat has a drainage and utility easement covering the entirety of Outlot A which would replace this easement.

Reifsteck clarified that maintenance of the stormwater facilities within the development area will be the responsibility of the developer.

Rybak stated that the Planning Commission unanimously recommended approval of the request subject to the five conditions included in the staff report and Resolution. She reminded the Council

that the decision regarding vacation of an easement is solely a Council action, therefore, the Planning Commission had not made a recommendation on that item.

Council member Joyce pointed out that the staff report had mentioned that staff had not yet received the full stormwater management plan.

Reifsteck responded that staff had received the stormwater plan from the developer after the packet was put together. In addition to the stormwater plan, staff has also received the geotechnical report.

*A motion was made by Dyvik, seconded by Feldmann, to adopt Resolution No. 2022-11 approving the Final Plat for Aava Vetta located at 1843, 1877, 1885, and 1895 Symes Street. Ayes: all.*

Mayor Miner opened the public hearing to consider the applicant's request for vacation of a drainage and utility easement at 7:13 pm.

There being no comment, Mayor Miner closed the public hearing at 7:14 pm.

*A motion was made by Miner, seconded by Joyce, to adopt Resolution No. 2022-12 approving the request for vacation of a drainage and utility easement. Ayes: all.*

### **Approval of Development Agreement for Aava Vetta Project**

City Attorney Thames indicated that after the draft Site Development agreement was included in Council members' meeting packets, he had received a request from representatives of JMH Land Development (JMH) to do things, framework-wise, a bit differently than what was proposed. He explained that JMH is working with a builder that would construct all of the actual buildings on the site, whereas JMH would provide the public improvements such as the road. Their proposal is to break up some of the requirements into two separate development agreements, based on the improvements that each entity would provide. Thames confirmed that it could be done, but does 'muddy the waters' a bit as far as who is responsible for what, and he reviewed some of the items that would need to be clarified related to escrow funds, licenses and permits. The outcome of their request is that there is not a draft agreement for the Council to review this evening. He noted that he had asked representatives from JMH to come to the meeting in order to explain to the Council what they are proposing, and then he will draft whatever agreement the Council directs following this discussion.

Mark Sonstegard, JMH Land Development introduced Todd Polifka, President, Custom One Homes who will be the builder for this project. Mr. Sonstegard stated that they have been working with staff and WSB on the final engineering plans and should have them ready to submit by next week. He stated that their MCWD permit application is within their jurisdiction's 14-day comment period, and they are working through agreements and sureties. Custom One Homes has hired the architect and they are getting close to being ready to submit the plans for a building permit application. JMH is supplying the lots, so that means for their development agreement, they will take care of all of the surety, build the streets, and get all the permits in place that are required for site development. At that point, Custom One Homes will come in and do the building permit work and take care of those requirements. He explained that they are asking for a separation of development agreements for the responsibilities that match their contract with each other.

Council member Kvale asked if they wanted to separate the liability.

Ms. Sonstegard replied that they desire to do so for each entity's specific items related to the development.

Council member Kvale commented that her concern is for who owns what, how the City will be paid, and about what would happen in the event something goes wrong. She stated that if they, JMH and Custom One Homes, can each say it is the other's fault, there is no leverage for the City to achieve performance. She gave the example of a situation where City could not withhold the building permit if the street wasn't put back properly because those are separate responsibilities between the entities.

Thames added that there are two separate sets of obligations, but they are intermingled and the City can secure both. He noted that the proposed agreements could achieve the same thing the City usually does, splitting the same responsibilities between two separate agreements, and assured the Council that it could be done in a manner that secures the City's interest. He reiterated that it can be done but admitted that it does complicate things and outlined the three possible ways to proceed.

Council member Kvale reiterated her concerns that with the obligations split the City would not have leverage to hold an occupancy permit.

Thames responded that a Letter of Credit that would give the City security over and above the ability to withhold an occupancy permit because they will have security on the requirements of each agreement. He added that two separate securities on two separate agreements may be required.

Mayor Miner asked if JMH and Custom One Homes would draft their proposed separate agreements and then present them to the City for approval.

Amy DuMond Kottke introduced herself as the legal counsel working with both parties, and indicated that she and City Attorney Thames have had multiple conversations about how to address the City's concerns and how to get the agreements drafted so it is not on the City's dollar. She stated that they are proposing to use the current form as seen in the packet and split the obligations among the appropriate entities, so the agreement forms would be what the Council is used to seeing and each party would have their own set of obligations. Financial obligations would be set forth on Exhibit C, which would then go into their security determinations and would be very distinct as to who takes care of what.

There was discussion about various ways the development agreement(s), letter of credit, and certificate of occupancy can be handled.

Mayor Miner asked if City Attorney Thames was comfortable with the applicant's approach.

Thames commented that he had wanted the developer to explain to the Council what they were proposing because it would be a departure from what has been done in the past. He added that he believes the agreements can absolutely be handled in the manner proposed, and the scenario will just look different than what the Council is used to seeing.

City Clerk Moeller questioned whether the plan was to bring the development agreements back to the April 5, 2022 Council meeting for approval.

Thames replied affirmatively.

It was the consensus of the Council that staff and the applicant may move forward with drafting two development agreements, one for each entity.

### **Ordinance Amending the I-1 Industrial and I-2 Zoning District Requirements Pertaining to Outdoor Storage, Parking, and paving**

Planning Consultant Jared Johnson, WSB, presented an overview of the final proposed amendments based on conversations held during the last two City Council meetings and March 8 Planning Commission meeting. He reminded the Council that after they had come to an agreement on screening, corner lot, use, parking, and paving, they had asked staff to conduct additional research on the properties in the industrial area with regard to how setback location and the percentage area of outside storage would impact the area, and gave direction to staff to add clarifying language on the chain link fencing. He noted that the prohibition of chain link fencing only applies to sides along the right-of-way or non-industrial properties. At their March 8 meeting, the Planning Commission had recommended approval of the draft ordinance but had requested language be added to address permitted uses for multi-tenant buildings. He reviewed the new proposed language that makes it clear that the exterior storage must be associated with a permitted use occurring on the property.

The Council asked questions and discussed detail items in the ordinance, as well as explored various hypothetical scenarios.

*A motion was made by Dyvik, seconded by Joyce, to adopt Ordinance No. 2022-01 amending Section 16. Regulations for "I-1" Industrial District and Section 16A. Regulations for "I-2" Industrial District of the Long Lake Zoning Ordinance regarding outdoor storage, screening, parking and paving requirements. Ayes: all.*

### **Annual Seasonal Use Permit Application by Long Lake Rowing Crew (LLRC) for Use of Long Lake**

City Clerk Moeller explained that there is a Conditional Use Permit (CUP) that governs the Long Lake Rowing Crew's (LLRC) operation of a rowing club out of the Birch's facility. The CUP sets forth conditions of approval that are related to the land use, including hours of operation. She stated that the LLRC has applied for their annual Seasonal Use Permit from the Hennepin County Sheriff's Office Water Patrol unit, and the City's role in this process is to authorize Water Patrol to issue that permit and verify that the application they have submitted to the City is consistent with the hours of approval within the CUP. She acknowledged that there have been some comments from the public to both staff and Council about concerns regarding the LLRC and their practices on the lake. She reported that there have been a lot of conversations with Water Patrol this year and their office has confirmed that the City's role in the permit authorization process is to verify that their application is not inconsistent with the CUP and land use control. Water Patrol has jurisdiction over the LLRC's practices on the water, and they have clarified that the City does not have the authority to set additional conditions beyond the CUP. She added that while the Council and staff can all confirm they have anecdotally heard comments from a variety of users about issues with the LLRC, Water Patrol does not have that same record of comments or concerns. Separate from consideration of their permit, staff is going to step up their efforts this year to just do a better job of informing all watercraft users, motorized and non-motorized, that if they see an issue or incident of any kind on the lake, they should call 911. She advised that she intends to include some content into the next City newsletter so the public is informed that if there are concerns, the public needs to report them directly to Water Patrol rather than the City, because they are the ones who govern that permit and lake use conditions. She verified that the hours submitted on the application match the hours that have been approved in the CUP.

Council member Joyce inquired about the hours submitted and mentioned that in the packet materials submitted, there were five June dates included in the schedule that are outside of the approved CUP hours. She pointed out that the schedule in Council member meeting packets shows Saturday dates with times from 6:30 pm to 8:00 pm; and the CUP states that nothing shall happen after noon on Saturdays. She called out a June 12 date that was included, which is a Sunday.

Moeller confirmed that neither the Saturday evening or the Sunday dates would be permissible.

Council member Joyce observed that it was really helpful that there was a schedule included because she has never seen one before.

Moeller indicated she will communicate with the LLRC that their schedule needs to be updated to be consistent with the permitted hours only. She recommended that the Council make a motion for approval of issuance of the permit, subject to all operations being within the approved CUP hours.

Council member Joyce stated that she would like to see the schedule corrected before any action is taken.

Amy Johnson, LLRC, commented that this year they had decided to offer a tentative schedule in their application submission since it has been an ongoing question by Council. She stated that there was a typographical error in the Community Education information and the dates should be June 13, 14, 15, and 16, and evening practices run on weekdays only. She clarified that there are no Sunday dates, and mentioned that their schedule of operations is available on their website.

Council member Joyce commented that she did not see the master schedule on their website.

Ms. Johnson noted that because the season had not yet begun, their website was not completely updated yet with master schedule information. The information she submitted to the City has been their traditional schedule for the last five or six years, and she assured the Council that if anything will be added, it would be within the CUP hours.

Moeller stated that if the Council is not comfortable moving forward with a motion tonight, they can request an updated schedule of the LLRC and bring the permit authorization action item back for approval at the Council's April 5 meeting.

Council member Joyce reiterated that she would prefer not to take action tonight because what was written and included in the packet was inaccurate.

John Fanning, President of the Long Lake Rowing Crew, explained that when you look at the CUP, it provides hours the LLRC has to work within, and the schedule they provided was a tentative schedule. He stated that LLRC has the ability to make adjustments to that schedule as long as it is within those hours, and the Council is being asked to vote on approving the permit based on the conditions of the CUP. He confirmed that Council member Joyce's questions are valid, but the fact is, the schedule could change tomorrow and what is critical is that their operations take place within the approved CUP hours.

Council member Joyce observed that if this is all the information the City has been given, she questioned how they would know that they are within those hours.

Mr. Fanning responded that it comes down to Water Patrol, because they are the ones who enforce their operations on the water. He reiterated that the LLRC would be functioning within that CUP.

Moeller added that the Council could read the CUP hours of operation into the motion for clarity, and noted that the LLRC has maintained operations within the CUP hours.

Mr. Fanning indicated that one of the issues they run into is that their activities are weather dependent, so if they have on the schedule that they are rowing, that could change if it rains. He emphasized that technically and legally, they have to operate within the conditions of the CUP.

Council member Joyce observed that it was helpful to see the information included that, for example, there are eight participants in their Community Education classes. She asked if that was information they could also include for their juniors and masters' classes.

Ms. Johnson replied that this information was already stated on their Water Patrol permit.

Council member Joyce responded that she was referring to the information being available on their website, not on the Water Patrol permit, so that the public can view the information along with the schedule. She gave the example of seeing that masters' classes can have up to 25 people, so if someone sees 25 rowers on the lake, they will understand why.

Mr. Fanning stated that they could do so, but people would have access to the Water Patrol permit information also because it is public record. They have to be careful from a safety standpoint for disclosing how many people will be out there because they would be advertising unattended vehicles. He reiterated that they have to be careful about what they disclose.

Moeller added that she believes the Council is just looking for more descriptive information about the different types of classes and how many people 'could' be participating in class types. She recognized that she understands the City cannot require them to do so, but felt adding more descriptive information would go a long way to help resolve inconsistencies, add clarity, and address expectations of lake users through increased communication.

Council member Feldmann commented that hearing information about their scope of operations is extremely helpful, adding that he did not think it was common knowledge that the intent was to limit classes to 25 participants because that was also not listed on the permit.

Council member Dyvik noted that in the correction statement provided by the LLRC, the document says that they always maintain two safety launches with a cap of 25 rowers; however, the permit application states 'approximately' 25 rowers.

The Council discussed definitions of the scope and the maximum number of rowers.

Council member Dyvik mentioned that in the LLRC's correction statement document, they stated, "...however over the past two seasons, incidents of people operating motorized watercraft recklessly with little regard for safety are increasing." He questioned if that statement is accurate or if it was because the rowers have increased in numbers, thereby creating a more dangerous situation.

Mr. Fanning reflected that he thinks it is probably due to both circumstances, and does not think they can point to one or the other.

Council member Dyvik voiced that he does not think the number of reckless drivers on the lake is increasing, but he does see that there is a perception of an increasing number of rowers, so there is getting to be more traffic on the lake. He expressed his concern that the LLRC is a growing club and recalled that he was a supporter of it when it started, but he has growing concerns for safety because he sees the trend.

Mr. Fanning stated that he feels that is where the Water Patrol needs to be factored into managing and monitoring that.

Council member Dyvik asked if rowers wore life jackets.

Mr. Fanning responded that they do not wear life jackets, but that is why they have the coaches' boats next to them with life jackets for all participants.

Nicholas Miller, LLRC Coach, noted that boats that are out on their own without a safety launch are required to bring personal floatation devices with them.

Council members discussed hypothetical situations where personal floatation devices would be needed and how they would be used.

Council member Dyvik questioned how many rowers the LLRC could put on the lake and asked if there was a point where they see all the activity out on the lake and would have a maximum number.

Ms. Johnson stated that she felt they had already answered that question, with their maximum being at 25.

Council member Dyvik inquired whether 25 would always be their maximum number.

Ms. Johnson explained that the LLRC cannot have an additional safety launch per the CUP, so they will only put 25 people out there. She reviewed the details from the CUP approval in 2019 that states they are restricted to two safety launches on the water, and with their ratio of 12-15 rowers per coach, that puts them in the range of 25 rowers. When registration has been open, for the juniors group in particular, they have had to cap it and turn away some of the kids.

Council member Joyce asked if it would be fair to request the LLRC share that information for general public knowledge on their website.

Ms. Johnson replied that they would be happy to add additional information.

Mayor Miner highlighted that in the correction document the LLRC had submitted, they stated that they do not supervise rowers who row independently using LLRC equipment outside of regular practice hours. He asked if that meant the LLRC allows people to use their equipment.

Ms. Johnson confirmed that if someone is a member of the LLRC and has passed their safety guidelines, they are approved to row independently and are allowed to take a rowing shell out on their own.

Council member Joyce asked if those individuals would be required to follow the CUP hours.

Moeller explained that they would be considered individual public users, similar to someone borrowing someone else's boat, as they are essentially borrowing the property of the LLRC but are not doing so with their supervision or coaching in an organized practice.

Council member Joyce gave the example of five people wanting to take out a boat without a motorized coach boat.

Moeller reiterated that would be members on the lake as public users that are borrowing watercraft. She stated that for the safety related issues that have come up, the City is going to try to do their best this year to do more pushing of information and encourage people that if any water user has concerns, they are advised to contact Water Patrol.



Council member Dyvik commented that his recollection was that correspondence from Water Patrol had actually indicated people should actually call 911 even if they don't feel it is an actual 'emergency'.

Moeller responded that Council member Dyvik's statement was correct, and it does not have to be an emergency for individuals to call 911. She clarified that the new mode of 911 operations is, "if you see something, say something", and explained that with the new dispatch system in Hennepin County, if someone calls 911 for an emergency or for a nuisance dog barking in the back yard, that call now links to the reporting systems for the Police and other public safety departments. This process saves the officers and responders a lot of time regardless of the type of call, and assured people that they truly want people to call 911 rather than trying to find a non-emergency number that sounds less intimidating than 911. She shared a personal example of where she had called the Wayzata Police Department before to report a City business matter, and was directed to call back to 911 so it would be logged correctly into the system.

*A motion was made by Kvale to authorize the Hennepin County Sheriff's Office Water Patrol unit to issue a Seasonal Use Permit to the Long Lake Rowing Crew rowing club for use of Long Lake in 2022, contingent upon the applicant meeting all conditions of permit issuance imposed by the issuing agency, subject to all hours being consistent with the CUP.*

Council member Feldmann suggested a friendly amendment, just to make everything clear and have the motion include that the hours would consistent with the CUP or sunset, whichever is earlier, constrained to 25 or fewer rowers at any given time in the water, and rowers to be accompanied by a chase boat with adequate personal floatation devices.

Moeller noted that some of those conditions would be outside of the City's jurisdictional control, and reminded the Council that the City's jurisdictional control was to verify approval with the conditions of the CUP, which is related to the hours of operation. The Council could include those items within the motion, but Water Patrol may choose not to uphold those stipulations.

Council member Feldmann indicated that he thinks including language about 25 rowers or less is the intent of the LLRC and would go a long way in communicating with the community their intent, which may help diffuse some of the tension regardless of whether it is enforceable or not.

Mayor Miner asked if there was a second to the original motion.

Motion failed for lack of a second.

*A motion was made by Feldmann, second by Dyvik, to authorize the Hennepin County Sheriff's Office Water Patrol unit to issue a Seasonal Use Permit to the Long Lake Rowing Crew rowing club for use of Long Lake in 2022, contingent upon the applicant meeting all conditions of permit issuance imposed by the issuing agency, subject to all hours being consistent with the CUP, and that they are constrained to 25 or fewer rowers at any given time in the water. Ayes: all.*

### **Public Hearing: Ordinance Amending the City Code of Ordinances, Chapter 28 – Solid Waste to Implement an Organics Requirements for Licensed Residential Haulers**

Moeller gave an overview of the Hennepin County mandate that requires cities within the County to provide residential organics service in 2022. She reported that what is in front of the Council for their consideration is a repeal and replacement of the chapter of City Code pertaining to Solid Waste and reviewed changes to be made from the current chapter, including updating definitions, removing references to streets no longer in existence, and implementing a requirement for licensed residential refuse haulers to make organics collection services available to their Long Lake customers. She indicated that the residential refuse haulers have all been provided a copy of the

draft ordinance and were notified of the public hearing. She commented that she feels there has been great dialogue with the haulers and one has already begun scheduling routes. She clarified that the residential haulers will be required by ordinance to make organics services available to Long Lake customers, but residents are not required to sign on.

Mayor Miner opened the public hearing at 8:37 pm. There being no public comment, he closed the public hearing at 8:38 pm.

*A motion was made by Feldmann, seconded by Miner, to adopt Ordinance No. 2022-02 amending the City Code of Ordinances, Chapter 28 – Solid Waste, and to direct staff to publish a summary ordinance. Ayes: all.*

## **OTHER BUSINESS**

**Copy of Water Patrol Permit** - Council member Dyvik asked if the Council could see a copy of the Water Patrol permit for the LLRC once it has been issued. He indicated that he would like to see if their office would include the extra provisions that the Council had included in their motion tonight. Moeller replied that she does typically ask for a copy of the permit once it has been issued, and when she receives that she will share it with the Council.

**Long Lake Waters Association Liaison Report** - Council member Joyce stated that she had a good conversation with the Long Lake Waters Association recently and they will be coming to the April 5, 2022 Council meeting to share details about a carp management project and to ask for possible financial support. She noted that they will also be holding an event on April 23, 2022 called 'Walk for Water' from 2:00 pm to 4:00 pm and suggested that the City help advertise for this event.

## **ADJOURN**

*Hearing no objection, Mayor Miner adjourned the meeting by general consent at 8:46 pm.*

Respectfully submitted,

Scott Weske  
City Administrator